



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 3, 1998

Mr. John Julian Moore
Colorado County Attorney
400 Spring Street, 2nd Floor West
Columbus, Texas 78934

OR98-2574

Dear Mr. Moore:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119178.

You submitted to this office two requests for records that pertain to a shooting incident in which the alleged shooter and two victims, including a police officer, were killed. One request, which was directed to the justice of the peace for precinct 1 in Colorado County (the "JP"), seeks the inquest reports, information about the inquest proceedings, and statements taken from witnesses. The second request, which was directed to the sheriff of Colorado County (the "sheriff"), asks for a copy of all reports that describe or are about the shooting, transcripts of dispatches, witness statements, diagrams or drawings, and photographs. Your office represents both the JP and the sheriff in responding to the open records requests.

It appears that the request to the JP is not subject to chapter 552 of the Government Code, the Open Records Act. We agree that the Open Records Act does not apply to records of the judiciary. Gov't Code § 552.003(B) Attorney General Opinion DM-166 (1992). You also assert that some documents held by the JP are confidential by law and must be withheld under section 552.101 of the Government Code. Because the JP is not subject to the Open Records Act, we need not address these documents.

We note, however, that some records of the judiciary may be public by other sources of law. Attorney General Opinions DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star-*

Telegram, Inc. v. Walker, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released). We also note that you submitted to this office as responsive to the request autopsy reports. Section 11 of article 49.25 of the Texas Code of Criminal Procedure provides:

The medical examiner shall keep full and complete records, properly indexed, giving the name if know of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall be a part of the record. Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. *Such records shall be public records.*

(Emphasis added). See Open Records Decision No. 529 (1989) (autopsy reports expressly made public by statute).

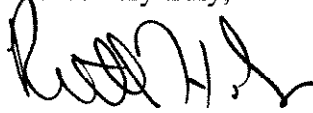
As to the records held by the sheriff which are responsive to the request, you assert that the records are protected from disclosure under section 552.108. We note initially that if the autopsy reports are held by the sheriff, they are public and must be released. No exception of the Open Records Act, including section 552.108, will protect autopsy reports from public release. Open Records Decision No. 525 (1989) (exceptions to disclosure under Open Records Act generally inapplicable to information made public by statute). Also, section 552.108(c) provides that basic information about an arrest, a crime, or an arrested person is not protected from disclosure under section 552.108. Included in the documents are radio log notations that contain basic, section 552.108(c) information about the incident and thus must be released. See Open Records Decision No. 394 (1983) (radio logs generally contain front page, basic information about incidents).

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. You assert that the case is open, under investigation, and that there is an "an upcoming grand jury to determine if criminal charges may be filed against persons involved in the offense." Since you assert that there is a pending criminal case, we agree that section 552.108(a)(1) protects the remaining information which is at issue, except for the front page offense report information. Open Records Decision No. 216 at 3 (1978) (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written over a horizontal line.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119178

Enclosures: Submitted documents

cc: Ms. Jackie Wilson
202 Clayborne Street
Glidden, Texas 78943
(w/o enclosures)